

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ELBIT SYSTEMS LTD.,

Plaintiff,

against

CREDIT SUISSE GROUP,

Defendant.

USDC SDNY  
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10 Civ. 10 (SHS)

ORDER

SIDNEY H. STEIN, U.S. District Judge.

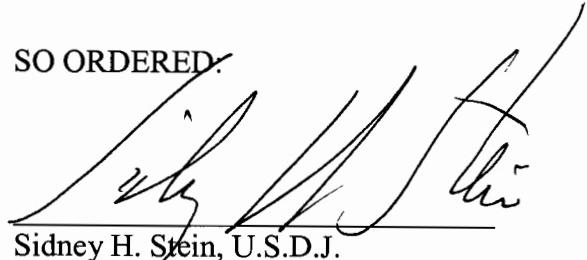
On January 4, 2010, this action was transferred to this Court from the Northern District of Illinois. Credit Suisse Group has now moved to dismiss the complaint for failure to state a claim, alleging that plaintiff's claims are barred by a release plaintiff's predecessor-in-interest signed in November 2007.

Although matters integral to the complaint—such as the release—may be considered on a motion to dismiss, *see Schnall v. Marine Midland Bank*, 1999 U.S. Dist. LEXIS 10581, \*3-4 (S.D.N.Y. July 13, 1999), *aff'd*, 225 F.3d 263 (2d Cir. 2000); *see also RBS Holdings v. Wells Fargo Century Inc.*, 485 F. Supp. 3d 472, 476-77 (S.D.N.Y. 2007), the Court finds that it is more appropriate in this case for the parties to engage in discovery limited to the release and for the meaning and scope of the release to be decided on summary judgment rather than on a motion to dismiss, *see Consorcio Prodipe, S.A. DE C.V., v. Vinci, S.A.*, 544 F. Supp. 2d 178 (S.D.N.Y. 2008) (converting the issue of the release provision into a motion for summary judgment and limiting fact discovery to that issue); *Davis v. Eastman Kodak Co.*, No. 04 Civ. 6098, 2007 U.S. Dist. LEXIS 23193, at \*5 (W.D.N.Y. Mar. 29, 2007) (same). Accordingly, it is HEREBY ORDERED that:

1. The parties are to complete discovery on the issue of the release by September 13, 2010;
2. Any summary judgment motion is due October 8, 2010; opposition to such motion is due October 29, 2010; and any reply is due November 5, 2010;
3. The pending motion to dismiss the complaint is denied without prejudice; and
4. The next pretrial conference will be held on September 13, 2010 at 10:00 a.m. The parties are directed to bring any discovery disputes to the Court's attention far enough in advance of the September 13 conference so that those disputes may be resolved at that conference.

Dated: New York, New York  
July 8, 2010

SO ORDERED:



Sidney H. Stein, U.S.D.J.